

SECOND CONSIDERATION

AGENDA ITEM VII-D

Consideration of adopting amendments to Sections 13.1, 13.20, 13.21, 13.22, 13.23, 13.24, 13.43, 13.45, 13.46, 13.47, 13.190, 13.193, 13.194, and 13.195 and adopting new Sections 13.25, 13.63, and 13.64 of Board rules, concerning Financial Planning (Second Consideration)

RECOMMENDATION:

1. Adopt amendments to Sections 13.1, 13.20, 13.21, 13.22, 13.23, 13.24, 13.43, 13.45, 13.46, 13.47, 13.190, 13.193, 13.194, and 13.195, with changes to the proposed rules
2. Adopt new Sections 13.25, 13.63, and 13.64, with changes to the proposed rules

Summary:

At its January 2004 meeting, the Board proposed amendments to these sections and new sections, concerning Financial Planning. Staff recommends that the Board adopt the proposed amendments and new sections, which make the following specific changes to Board rules:

1. The amendments to Section 13.1 are recommended to add definitions for: base year; contact hour; developmental coursework; formula funding; general academic teaching institution; institution of higher education or institution; institutional expenditures; non-degree-credit-developmental courses; public junior colleges, technical colleges, and state colleges; and semester credit hours. These terms are used later in Chapter 13.
2. The amendments to Section 13.20 would add to the purpose of the Subchapter an exception for formula funding as provided by a rider to the General Appropriations Act.
3. The recommended amendments to Section 13.21 would add authority for the Board to implement the provisions of the Texas Success Initiative, in accordance with the Texas Education Code, Section 51.307.
4. The amendments to Sections 13.22, 13.23, and 13.24 are recommended to correct (a) from May 30 to June 1 the due date for formula funding recommendations, as required in the riders to the General Appropriations Act, (b) to whom formula funding recommendations are to be delivered, and (c) to require the Board to identify funding incentives that would encourage implementation of the five-year master plan, *Closing the Gaps by 2015*. Texas Education Code, Section 61.059, authorizes the Texas Higher Education Coordinating Board to establish standards, rules, and regulations.

AGENDA ITEM VII-D

Page Two

5. New Section 13.25 is recommended to implement the provisions of Section 50, Special Provisions Relating Only to State Agencies of Higher Education of the General Appropriations Act of the 78th Texas Legislature, which limits the formula funding of courses to the first two attempts by students of courses containing the same content. The recommended rule would exempt from funding courses having the same content in which a student has enrolled three or more times. Texas Education Code, Section 61.059 authorizes the Texas Higher Education Coordinating Board to establish standards, rules, and regulations.
6. The recommended amendments to Section 13.43 concern the delivery of annual budgets and would clarify the destination and the due date. The amendments to Section 13.45 are recommended so the requirements will include that the current operating budgets must be prepared within the limits of available revenue, as required by Section 6.1, Special Provisions Relating Only to State Agencies of Higher Education of the General Appropriations Act of the 78th Texas Legislature. Texas Education Code 61.059 authorizes the Texas Higher Education Coordinating Board to establish standards, rules, and regulations for formula funding. The amendments to Sections 13.46 and 13.47 are recommended to insert the full titles of the Permanent University Fund, the Available University Fund, and the Higher Education Assistance Fund stated prior to the use of the abbreviations.
7. New Section 13.63 is recommended to add the reporting requirements that financial information as was reported in the 2001 annual financial reports, as directed by the Board, be completed by all institutions of higher education as required by Section 54, Special Provisions Relating Only to State Agencies of Higher Education of the General Appropriations Act of the 78th Texas Legislature. Texas Education Code, Section 61.059, authorizes the Texas Higher Education Coordinating Board to establish standards, rules, and regulations.
8. New Section 13.64 is recommended to add the reporting requirement for Available University Funds contained in Rider 4, Available University Fund of the General Appropriations Act of the 78th Texas Legislature. Texas Education Code, Section 61.059, authorizes the Texas Higher Education Coordinating Board to establish standards, rules, and regulations.
9. The amendments to Subchapter K relate to the Technology Workforce Development Grant Program. The amendments to Section 13.193 are recommended to include in the request for proposal the award criteria to be used by the review panels in selecting projects to be funded. The amendments to Section 13.194 are recommended to establish the criteria for allocating available funds prior to the peer review of the projects, the process of delivering a ranked list of projects to the Commissioner, and to add a prohibition on conflict of interest participation in the ranking process. The amendment to Section 13.195 changes the term of a grant from a maximum of three years to a maximum of five years. At its October 30, 2003 meeting, the Board directed staff to establish an improved process for recommending awards for the Technology Workforce Development Grant Program. These recommendations respond to that request.

AGENDA ITEM VII-D
Page Three

Date Presented to the Board for Publication in the Texas Register: January 29, 2004

Date Published in the Texas Register: February 20, 2004

Summary of comments received:

Comment:

Regarding Section 13.1 (5) and (23), Tyler Junior College requested that the Board consider eliminating the reference to a contact hour being "60 minutes" because "other Board documents use 50 minutes of direct instruction in their definition."

Response:

Upon researching the issue, staff could find only one other document, *Guidelines for Instructional Programs in Workforce Education*, with a contact hour definition (see Glossary, page 5), and this document uses the identical definition to that proposed. No other definitions could be located. The staff does not recommend any changes as a result of this comment.

Comment:

One commenter requested that a definition for Developmental Education be added to Section 13.1.

Response:

The staff agrees with this comment and has added a definition for Developmental Education as Section 13.1(8), with subsequent definitions renumbered.

Comment:

Regarding Section 13.22(b), the Board's Public Community College Annual Financial Reporting Committee recommended renaming the *All Funds Expenditures Study* to the *Report of Fundable Operating Expenses* to reflect more accurately the content of the report and to bring the funding categories into alignment with their annual financial reports, which will improve reporting efficiencies for the community colleges. The Committee also recommended changing the word "expenditure" to "expense" wherever it appears, to align with Government Accounting Standards Board Statements #34 and #35 accounting requirements.

Response:

The staff agrees with these comments and has added changes to Section 13.22(b) as a result of these comments.

AGENDA ITEM VII-D
Page Four

Comment:

Regarding Section 13.25, Formula Funding Exceptions, Austin Community College recommended an exemption for community college students from the provision because “their academic background and age” made them more likely to take courses for a third time.

Response:

Upon reviewing the intent of the language in the appropriations bill that authorized prohibiting formula funding for third-time enrollments in the same course, staff concluded that all students at public higher education institutions were to be included under this provision. Staff is not recommending any changes as a result of this comment.

Comment:

Regarding Section 13.25, Formula Funding Exceptions, North Harris Montgomery Community College District asked for clarification as to whether community college districts were affected by subsection (a).

Response:

Staff agrees that a clarifying statement specifically including community college districts should be included in Section 13.25(a) and has added language to that effect.

Comment:

Also regarding Section 13.25 (a), Dallas County Community College District and Collin County Community College District requested the Board consider changing the effective date of the section to Summer 1, 2004, rather than Spring 2004, to coincide with the base period, and to change the tracking period for enrolled students from Fall 2002 to Fall 2003, when the provision in the appropriations bill became effective, to give institutions more time to implement tracking systems on their campuses.

Response:

Upon reviewing the intent of the language in the appropriations bill that authorized prohibiting formula funding for third-time enrollments in the same course, staff concluded that no savings would be realized if the effective date were changed to Summer 1, 2004 and the tracking period changed to Fall 2003. Staff is not recommending any changes as a result of this comment.

Comment:

Regarding Section 13.25 (d) (3) and (4), The University of Texas at Austin requested clarification of the list of exemptions pertaining to independent study courses, special topics courses, and seminars.

AGENDA ITEM VII-D

Page Five

Response:

Staff agrees that clarification to Section 13.25(d)(3) and (4) was needed and has added changes as a result of this comment to clarify that all independent study courses and special topics and seminar courses are exempt from the requirements of Section 13.25.

Comment:

One commenter requested that the Board add a provision in Section 13.25(d) that would describe how the 18-hour and 27-hour limit on formula funding for developmental educational courses would be affected by the limits on formula funding implemented in this section.

Response:

In response to this comment, staff has added changes to Section 13.25, adding Section 13.25(d)(6) to permit formula funding for students who enroll in developmental education courses designed as individualized instruction more than twice.

Comment:

Dallas County Community College District recommended expanding the list of courses that may be exempt from the provisions of Section 13.25(d).

Response:

The commenter did not suggest specific courses that should be exempt from the provisions of Section 13.25 and the courses that are included in this section are examples only. Staff recommends that the Board consider amendments to this section in the future if it is necessary to include additional courses. Staff does not recommend any changes at this time as a result of this comment.

Comment:

Austin Community College, Collin County Community College District, Dallas Community College District, and the Texas Association of Community College Business Officers also submitted comments regarding the community colleges' ability to charge additional fees when enrolled students take courses for the third time that cannot be counted for formula funding.

Response:

Staff does not believe that the Board has the authority to permit an institution to charge additional fees and the legislation is silent on this issue. Staff recommends no changes as a result of this comment.

AGENDA ITEM VII-D

Page Six

Comment:

Regarding Section 13.63 (a), The University of Texas System recommended clarifying language on the required format for financial data reporting. The language would help demonstrate that the Board-required annual financial report by fund group is a different report from one with a similar name that is required by the Office of the Comptroller.

Response:

The staff agrees with this comment and has added changes to Section 13.63(a) to clarify.

Comment:

Regarding Section 13.63 (b), the Board's Public Community College Annual Financial Reporting Committee recommended clarifying language so that the expense and revenue categories of the annual financial report would more closely match those in the *Report of Fundable Operating Expenses*.

Response:

The staff agrees with this comment and has added changes to include new subsection (b) to provide clarity. As a result of this new subsection, it is no longer necessary to include the community colleges in subsection (a), and staff has struck the word "community" from the earlier proposed language in subsection (a).

Comment:

Regarding Section 13.64 (a) (1) (C), The University of Texas System recommended clarifying language on the use of excellence funds allocation report to include reporting by component.

Response:

Staff agrees with this comment and has changed Section 13.64(a)(1)(C) to provide clarity.

The highlighted portions of the rules reflect the changes that are recommended by the staff as a result of these comments.

Legal Review:

Approved by the Office of General Counsel _____ Date _____